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**Also Admitted in Virginia

September 21, 2012

Indiana Utility Regulatory Commission
101 W. Washington Street, Suite 1500E
Indianapolis, Indiana 46204-3407

RECEIVED
SEP 25 2012
INDIANA UTILITY
REGULATORY COMMISSION

RE: Town of South Whitley Sewer Rate Waiver

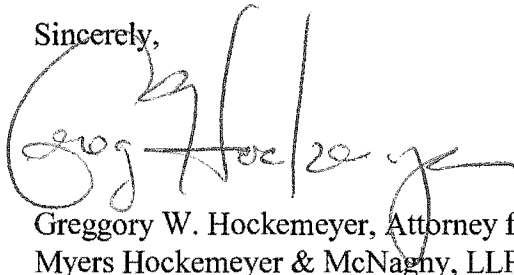
Dear Sir or Madam:

Enclosed please find a petition submitted on behalf of the Town of South Whitley Waste Water Utility seeking IURC approval of a rate differential under the Town's General Ordinance 86-2-1 passed by the South Whitley Town Council on February 25, 1986. Because that ordinance provided for a standard percentage deviation applicable to all future rates, the petition also includes information regarding the most recent metered and flat fee rates applicable to the South Whitley Waste Water Utility.

Your courtesy in accepting the enclosed petition for review under Indiana Code § 8-1.5-3-8.3(c) would be greatly appreciated. Should you have any questions or concerns regarding the petition, please feel free to contact me.

Failing to hear from you otherwise, I will look forward to your acknowledgment of the receipt and review of the enclosures and, hopefully, approval of same pending timely remonstrance as provided.

Sincerely,



Greggory W. Hockemeyer, Attorney for Town of South Whitley Waste Water Utility
Myers Hockemeyer & McNaghy, LLP

enclosure

GWH/lj

K:\Client Files\Town of South Whitley\IURC\Letter to IURC 092112.wpd

cc Bob Gould, South Whitley Clerk-Treasurer

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION FOR APPROVAL OF RATE)
AND CHARGE DIFFERENCE BETWEEN)
PROPERTY WITHIN AND PROPERTY) CAUSE NO.
OUTSIDE THE CORPORATE BOUNDARIES)
OF THE TOWN OF SOUTH WHITLEY FOR)
ITS WASTEWATER UTILITY)

Pursuant to Indiana Code § 8-1.5-3-8.3(c), Petitioner, South Whitley Wastewater Utility, by counsel, respectfully petitions the Indiana Utility Regulatory Commission ("Commission") for approval of the rate and charge difference between property within and property outside the corporate boundaries of the Town of South Whitley, Indiana. In support of its Petition, Petitioner states:

1. The ordinance setting distinct sanitary sewer rates and charges for property within and property outside the municipality's corporate boundaries took effect on March 1, 1986.
2. In part, the current Town of South Whitley Code provides:

§ 52.71 RATES BASED ON QUANTITY OF WATER USED.

(A) For the use of and the service rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate, or building that is connected with the Town's sanitary sewer system or otherwise discharges sanitary sewage, industrial wastes, water, or other liquids, either directly or indirectly, into the sanitary sewer system of the town.

(B) These rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows. Except as herein otherwise provided, sewage rates and charges shall be based upon the quantity of water used on or in the property or premises subject to the rates and charges as measured by the water meter there in use. The metered water usage shall be determined from the meter reading of the town's waterworks.

- (1) Sewage service rates, based upon the amount of water used shall be as follows:

Quantity of Water Used	Rate Per 1,000 Gallons
Per Month	
First 2,000 gallons	\$14.66
Next 8,000 gallons	\$12.23
Next 25,000 gallons	\$9.87
Next 65,000 gallons	\$8.17
Over 100,000 gallons	\$6.80

(2) The minimum charge for sewage service where the user is a metered water consumer shall be based upon the meter size as follows:

Water Meter Size (Inches)	Monthly Charge
5/8 — 3/4	\$ 29.31
1	\$46.82
1-1/4	\$69.92
1-1/2	\$93.04
2	\$174.46
3	\$348.72
4	\$581.10
6	\$1,162.19

(3) A flat rate for residential sewage service, where the user is not a metered water user, shall be \$59.89 per month. (Rate increases are effective with the January 1, 2012 billing.) (Ord. 11-11-02, passed 11-22-2011).

...

§ 52.74 RATES FOR USERS LOCATED OUTSIDE CORPORATION LIMITS.

Charges to users outside the corporation limits of the town will be billed at 150% of the rates and charges to users within the corporation limits. (Ord. 86-2-1, passed 2-25-86).

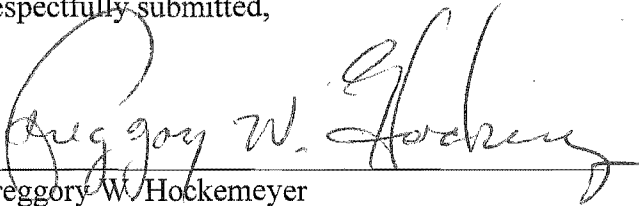
Attached as "Exhibit A" is a copy of the most recent Wastewater Rate Ordinance adopted, the provisions of which are incorporated above.

3. The works that is subject of the Ordinance is a:
 - a. Water utility works _____
 - b. Wastewater utility works X
 - c. Both water and wastewater utility works _____
4. The percentage difference between the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and to property located within the corporate boundaries is 50%.
5. If the percentage difference in #4 above varies based upon the amount of consumption, please provide a chart illustrating the various consumption levels in 1,000 gallon increments with the corresponding percent surcharge and attach to this Petition.
6. Petitioner considers Ind. Code § 8-1.5-3-8.3 (c), among other statutes, to be applicable to the relief requested by this Petition.

7. Gregory W. Hockemeyer is counsel of record for Petitioners in this matter and is duly authorized to accept service of papers in this cause on behalf of Petitioners.

WHEREFORE The South Whitley Wastewater Utility requests that the Commission issue an Order approving the percentage rate and charge difference between property within and property outside the corporate boundaries of the Town of South Whitley and for other just and reasonable relief.

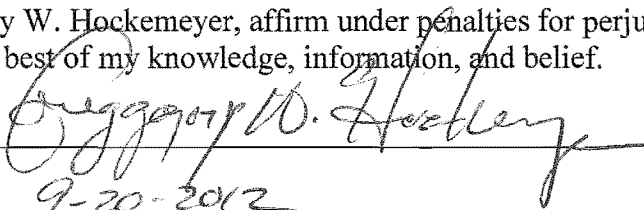
Respectfully submitted,


Gregory W. Hockemeyer
Attorney for Petitioners

Verification

I, Gregory W. Hockemeyer, affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Signed



Date

9-20-2012

Attorney Contact Information

Gregory W. Hockemeyer
Myers Hockemeyer & McNagny, LLP
116 North Chauncey Street
P.O. Box 89
Columbia City, IN 46725
(260) 248-2224

Exhibit A

ORDINANCE NO. 11-11-02

Sewage

An ordinance amending the Town of South Whitley Ordinance, Chapter 52, Section 52.71 increasing the sewage service rates to finance installation of improvements mandated as part of the Combined Sewer Overflow plan approved by the State of Indiana.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE INCORPORATED TOWN OF SOUTH WHITLEY, INDIANA THAT:

SECTION 1. Town of South Whitley General Ordinance, Chapter 52, §71(B) is amended as follows;

i. § 52.71, sub-part "B(1)" is hereby amended as follows:

(1) Sewage service rates, based upon the amount of water used, shall be as follows:

<u>Quantity of Water Used</u> <u>Per Month</u>	<u>Rate Per 1,000 Gallons</u>
First 2,000 gallons	\$14.66
Next 8,000 gallons	12.23
Next 25,000 gallons	9.87
Next 65,000 gallons	8.17
Over 100,000 gallons	6.80

ii. § 52.71, sub-part "B(2)" is hereby amended as follows:

(2) The minimum charge for sewage service where the user is a metered water consumer shall be based upon the meter size as follows:

<u>Water Meter Size (Inches)</u>	<u>Monthly Charge</u>
5/8 - 3/4 meter	\$ 29.31
1 meter	46.82
1-1/4 meter	69.92
1-1/2 meter	93.04
2 meter	174.46
3 meter	348.72
4 meter	581.10
6 meter	1,162.19

iii. § 52.71, sub-part "B(1)" is hereby amended as follows:

- (3) A flat rate for residential sewage service, where the user is not a metered water user, shall be \$59.89 per month. (Rate increases are effective with the January 1, 2012 billing.)

SECTION 2. This Ordinance shall be effective upon its passage and publication in a newspaper of general circulation as provided by law. The new rate increases shall be implemented effective on the January 1, 2012 billing.

PASSED FOLLOWING NOTICE AND HEARING BY THE TOWN COUNCIL OF THE TOWN OF SOUTH WHITLEY, INDIANA, THIS 22ND DAY OF NOVEMBER, 2011.

SOUTH WHITLEY TOWN COUNCIL

Joyce Warner
Jan R. Ehrhart

ATTEST:

Mitchel J. Winger
Mitchel J. Winger, Clerk-Treasurer

Received
October 04, 2012
INDIANA UTILITY
REGULATORY COMMISSION

MYERS HOCKEMEYER & McNAGNY, LLP

Greggory W. Hockemeyer
Marcia A. McNagny

116 North Chauncey Street
Columbia City, IN 46725
Phone: (260) 248-2224
Fax: (260) 248-2221

Soultana S. Myers
Dawn M. Boyd*

* Also admitted in Virginia

Fax Transmission Sheet

TO: Dana Lynn, IURC
RE: Town of South Whitley Sewer Rate Differential Waiver Petition
FAX #: 317-232-6758
FROM: Greg Hockemeyer *gh*
DATE: October 4, 2012

You should receive 10 page(s) including this cover sheet. If you do not receive all pages, please call 260-248-2224 and ask for Lori Jenkins. The original of this transmission will not be sent separately.

MESSAGE:

Ordinance No. 86-2-1 follows, as requested to supplement Petition filed on September 25, 2012. Please note that §2(j) provides the rate differential codified by the Town. I apologize for any inconvenience caused by its omission from the original submission. Please let me know if it will be necessary for me to submit a formal amended petition with the ordinance attached as an exhibit.

CONFIDENTIALITY NOTICE: THE MATERIALS ENCLOSED WITH THIS FACSIMILE TRANSMITTAL SHEET ARE PRIVATE AND CONFIDENTIAL AND ARE THE PROPERTY OF THE SENDER. THE INFORMATION CONTAINED IN THE MATERIAL IS PRIVILEGED AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL(S) OR ENTITY(S) NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, BE ADVISED THAT ANY UNAUTHORIZED DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS TELECOPIED INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE TRANSMITTAL IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE TO ARRANGE FOR RETURN OF THE FORWARDED DOCUMENTS TO US.

ORDINANCE NO. 86-2-1

An Ordinance fixing the schedule of rates and charges to be collected by the Town of South Whitley, Indiana, from the owners of property served by the sewage works of said Town of South Whitley, Indiana, and other matters connected therewith

WHEREAS, the Town of South Whitley, Indiana, has heretofore established the construction, maintenance and operation of works for the collection, treatment and disposal of sewage under the provisions of Chapter 284 of the Acts of the General Assembly of the State of Indiana for the year 1967; and

WHEREAS, the cost of such works and the amount of revenue bonds to apply on the cost have been determined and tentative contracts for the construction of said works have been awarded, subject to sale of the said revenue bonds; and

WHEREAS, said Chapter 284 of the Acts of 1967 requires that the rates and charges to be collected for the use of and the service rendered by such sewage works be fixed by ordinance, finally adopted after due notice and public hearing, and authorizes the collection of rates and charges when the construction of such works has been commenced; therefore,

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SOUTH WHITLEY, INDIANA:

Section 1. For the use of and the service rendered by said works, rates and charges shall be collected from the owners of all every lot, parcel of real estate or building that is connected with Town of South Whitley's sanitary sewer system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewer system of the Town of South Whitley, Indiana, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(a) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such use, except as otherwise provided in this ordinance. Sewage service rates, based upon the amount of water used, shall be as follows:

<u>Quantity of Water used</u> <u>Per Month</u>		<u>Rate per</u> <u>1,000 Gallons</u>
First	2,000 gallons	\$ 1.90
Next	8,000 gallons	1.60
Next	25,000 gallons	1.29
Next	65,000 gallons	1.07
Over	100,000 gallons	.89

The minimum charge for sewage service where the user is a metered water consumer, shall be based upon the meter size as follows:

<u>Meter Size</u>	<u>Per Month</u>
5/8"-3/4" meter	\$ 3.80
1" meter	6.10
1 1/4" meter	9.15
1 1/2" meter	12.15
2" meter	22.80
3" meter	45.60
4" meter	76.00
6" meter	152.00

A flat rate for residential sewage service, where the user is not a metered water user, will be Seven and 60/100 Dollars (\$7.60) per month.

(b) For the services rendered to the Town of South Whitley, Indiana, said Town shall be subject to the same rates and charges hereinbefore provided, or to charges and rates established in harmony therewith.

Section 2.

(a) In cases other than residential sewage service, the quantity of water obtained from sources other than the water utility service of the Town of South Whitley, Indiana, and discharged into the public sewage system may be determined by the Town in such manner as the officers of the Town shall elect and the sewage services may be billed at the above appropriate rates.

(b) Except in cases of residential sewage service, in the case of a lot, parcel of real estate or building discharging sanitary sewer.

industrial waste, water or other liquids into the Town's sanitary sewage system, either directly or indirectly, is not a user of the water supplied by the water utility serving the Town of South Whitley, and the water used thereon or therein is not measured by a meter or is measured by a meter not acceptable to the Town, then the amount of water used shall be otherwise measured or determined by the Town in order to ascertain the rates of charge, or the owner or other interested party, at his expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of the sewage discharge.

(c) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the Town's sanitary sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the Town of South Whitley, Indiana, and in addition uses water from another source which is not measured by a water meter or is measured by a water meter not acceptable to the Town, then the amount of water used shall be otherwise measured or determined by the Town in order to ascertain the rates of charge, or the owner or other interested party, at his expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.

(d) In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the Town's sanitary sewage system, either directly or indirectly, and uses water in excess of twenty thousand (20,000) gallons per month, it can be shown to the satisfaction of the Town that a portion of the water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.

adequate and approved method of measurement acceptable to the Town for the determination of sewage discharge.

(e) In the event two or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water or other liquids into the Town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, for billing purposes, the quantity of water used shall be averaged for each user and the minimum charge and the sewage rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.

(f) In the event two or more dwelling units such as apartments or housekeeping rooms discharging sanitary sewage, water or other liquids into the Town's sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, the monthly billing shall be computed by multiplying the minimum monthly charge of \$3.80 by the number of dwelling units served through the single meter. A dwelling unit shall be interpreted as a room or any other space in which cooking facilities are provided.

(g) In the case of trailer parks discharging sanitary sewage, water or other liquids into the Town's sanitary sewerage system, either directly or indirectly, and which are users of water from the Town's waterworks, and the quantity of water is measured by a single water meter, said user shall pay not less than the number of dwelling units times the minimum monthly charge of \$3.80.

(h) Billing for sewage rates and charges shall be made monthly. Such rates and charges, except as hereinabove provided, shall be based upon the quantity of water used on or in the property or premises, and same is measured by the water meter there in use, and said metered

usage shall be determined from the meter reading of the Town's waterworks.

(1) In order that domestic and residential users of sewage services, shall not be penalized for sprinkling laws during the months of June, July and August, the billing for sewage services for residential and/or domestic users for said months shall be based upon the water usage for the previous months of January, February and March, if such usage is lower than the summer months. Said sprinkling rate shall not apply to any premises which are partially or wholly used for commercial or industrial purposes. In the event a portion of such premises shall be used for commercial or industrial purposes the owner shall have the privilege of separating the water service so that the residential portion of the premises is served through a separate water meter, and in such case the water usage as registered by the water meter serving such portion of the premises used for residential purposes would qualify under the sprinkling rate.

(j) Charges to users outside the corporation limits of the Town will be billed at 150% of the rates and charges to users within the corporation limits.

Section 3. In order that the rates and charges may be justly and equitable adjusted to the service rendered to industrial users, the Town of South Whitley shall base its charges not only on the volume, but also on the strength and character of the stronger-than-normal industrial sewage and wastes which it is required to treat and dispose of. The Town of South Whitley shall require the owner or other industrial user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the sanitary sewage system in such manner and by such method as the Town may deem practicable in the light of the conditions and attending circumstances of the case, in order to determine the proper charge. The owner or other industrial

user shall furnish a central sampling point available to the Town at all times.

Normal domestic waste strength should not exceed a biochemical oxygen demand of 200 milligrams per liter of fluid or suspended solids in excess of 200 milligrams per liter of fluid. Additional charges for treating stronger-than-normal industrial waste shall be made on the following basis.

Rate Surcharge Based Upon Suspended Solids

There shall be an additional charge of 8 cents per 1,000 gallons of flow for each 100 milligrams, or fraction thereof, of suspended solids in excess of 200 milligrams per liter of fluid.

Rate Surcharge Based Upon BOD

There shall be an additional charge of 8 cents per 1,000 gallons of flow for each 100 milligrams, or fraction thereof, of biochemical oxygen demand in excess of 200 milligrams per liter of fluid.

Section 4. The terms "sanitary sewage" and "industrial wastes" shall be defined as follows:

(a) "Sanitary sewage" is defined as the waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, stable drains, and all other water-carried wastes except industrial wastes.

(b) "Industrial wastes" are defined as being the liquid waste liquid-borne waste resulting from any commercial, manufacturing or industrial operation or process.

Section 5. The rates and charges shall be prepared and billed by the Town of South Whitley, Indiana, monthly, as the Town of South Whitley, Indiana, may deem appropriate and as determined by the bylaws and regulations of the Town of South Whitley, Indiana, as hereinafter provided for, and shall be collected in the manner provided by law and ordinance. Said rates and charges will be billed to the tenant or tenants occupying the property served unless otherwise requested.

writing by the owners, but such billing shall in no wise relieve the owner from liability in the event payment is not made as herein required. The owners of the properties served, which are occupied by tenants, shall have the right to examine the collection records of the Town of South Whitley, Indiana, for the purpose of determining whether such rates and charges have been paid by such tenants, provided that such examination shall be made in the office in which said records are kept and during the hours that such office is open for business.

Section 6. The Town of South Whitley, Indiana, shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economic and efficient management of the Town of South Whitley's sewer system and for the construction and use of house sewers and connections to the sewer system, and for the regulation, collection, rebating and refunding of rates and charges.

Section 7. Except as otherwise provided, the rates and charges herein set forth shall become effective on the date that sanitary mains of the sewer system are made available for connection to any lot, part of real estate or building; but in any event, said rates and charges shall become effective no later than March 1, 1986, in order that the first billing for sewage service shall be rendered no later than March 1, 1986.

Section 8. The Town of South Whitley, Indiana, is hereby authorized to prohibit dumping of wastes into the Town's sewer system which in its discretion, are harmful to the operation of the sewerage works, or to require methods affecting pretreatment of said wastes to reduce the characteristics of the waste satisfactory to the Town of South Whitley, Indiana.


Section 9. In order that the rates and charges for sewage service may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the Town causes a study to be made within a reasonable period of time following

the first full calendar year of operation, subsequent to the completion of the improvement project. Such study shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluents from industrial users, (as defined by the Environmental Protection Agency) volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for operation and maintenance, replacements, debt service requirements and capital improvements to the waste treatment system.

Thereafter, on an annual basis, within a reasonable period of time following the normal accounting period, the Town shall cause a similar study to be made for the purpose of reviewing the fairness and equity of the rates and charges for sewage services on a continuing basis. Such studies shall be conducted by officers and/or employees of the Town of South Whitley or by a firm of certified public accountants and/or a firm of consulting engineers which firms shall have experience in such studies.

Section 10. This ordinance will repeal Amended Ordinance 10-1 passed and adopted by the Board of Trustees of the Town of South Whitley, Indiana, on June 10, 1974.

Passed and adopted by the Board of Trustees of the Town of South
Whitley, Indiana, on the 25th day of February, 1986.


Denver Watson

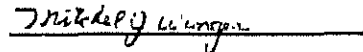

Betty Bishop


Thomas Rudd

BOARD OF TRUSTEES OF THE TOWN
OF SOUTH WHITLEY, INDIANA

(SEAL)

ATTEST:


CLERK-TREASURER OF THE TOWN OF
SOUTH WHITLEY, INDIANA